

## Department of the Treasury

## § 404.5

§§ 404.2 and 404.3 unless such financial institution:

(1) Is subject to 12 CFR part 12 (relating to national banks), 12 CFR part 208 (relating to state member banks of the Federal Reserve System) or 12 CFR part 344 (relating to state banks that are not members of the Federal Reserve System), or is a United States branch or agency of a foreign bank and complies with 12 CFR part 12 (for federally licensed branches and agencies of foreign banks) or 12 CFR part 208 (for uninsured state-licensed branches and agencies of foreign banks) or 12 CFR part 344 (for insured state licensed branches and agencies of foreign banks);

(2) Complies with the recordkeeping requirements of § 450.4(c), (d) and (f) of this chapter; and

(3) Makes and keeps current:

(i)(A) A securities record or ledger reflecting separately for each government security as of the settlement dates all “long” or “short” positions (including government securities that are the subjects of repurchase or reverse repurchase agreements) carried by such financial institution for its own account or for the account of its customers or others (except securities held in a fiduciary capacity) and showing the location of all government securities long and the offsetting position to all government securities short, including long security count differences and short security count differences classified by the date of the count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried;

(B) A complete and current Form G-FIN-4 (§ 449.3 of this chapter) or Form U-4 (promulgated by a self-regulatory organization) or Form MSD-4 (as required for associated persons of bank municipal securities dealers) for each associated person as defined in § 400.3(c) of this chapter;

(C) A Form G-FIN-5 (§ 449.4 of this chapter) or Form U-5 (promulgated by a self-regulatory organization) or Form MSD-5 (as required for associated persons of bank municipal securities dealers) for each associated person whose association has been terminated as provided in § 400.4(d)(2) of this chapter; and

(D) A complete and current Form G-FIN (§ 449.1 of this chapter) and, if applicable, a Form G-FINW (§ 449.2 of this chapter).

(ii) For purposes of paragraph (a)(3)(i)(A) of this section, “safe-keeping” may be shown as a location of any securities long as long as the financial institution complies with the requirements of part 450 of this chapter with respect to such securities.

(b) *Preservation of records.* (1) The records required by paragraph (a)(3)(i)(A) of this section shall be preserved for not less than six years, the first two years in an easily accessible place.

(2) The records required by paragraphs (a)(3)(i) (B) and (C) of this section shall be preserved for at least three years after the person who is the subject of the record has terminated his employment and any other association with the government securities broker or dealer function of the financial institution.

(3) The records required by paragraph (a)(3)(i)(D) of this section shall be preserved for at least three years after the financial institution has notified the appropriate regulatory agency that it has ceased to function as a government securities broker or dealer.

(c) *Effective date.* This section shall be effective on July 25, 1987, *except that* until October 31, 1987, a financial institution government securities broker or dealer is not required to make and keep current the securities position record required by paragraph (a)(3)(i)(A) of this section.

(Approved by the Office of Management and Budget under control number 1535-0089)

[52 FR 27952, July 24, 1987, as amended at 53 FR 28987, Aug. 1, 1988; 60 FR 11026, Mar. 1, 1995; 62 FR 7155, Feb. 18, 1997]

### **§ 404.5 Securities counts by registered government securities brokers and dealers.**

(a) *Securities counts.* Every registered government securities broker or dealer shall comply with the requirements of § 240.17a-13 of this title (Commission Rule 17a-13), with the modification that references to “broker or dealer” and “broker and dealer registered pursuant to Section 15 of the Act” include

registered government securities brokers or dealers.

(b) *Effective date.* This section shall be effective on October 31, 1987.

(Approved by the Office of Management and Budget under control number 1535-0089)

[52 FR 27952, July 24, 1987, as amended at 60 FR 11026, Mar. 1, 1995]

## PART 405—REPORTS AND AUDIT

Sec.

405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.

405.2 Reports to be made by registered government securities brokers and dealers.

405.3 Notification provisions for certain registered government securities brokers and dealers.

405.4 Financial recordkeeping and reporting of currency and foreign transactions by registered government securities brokers and dealers.

405.5 Risk assessment reporting requirements for registered government securities brokers and dealers.

AUTHORITY: 15 U.S.C. 78o-5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

SOURCE: 52 FR 27954, July 24, 1987, unless otherwise noted.

### **§ 405.1 Application of part to registered brokers and dealers and to financial institutions; transition rule.**

(a) Compliance by registered brokers or dealers with §§ 240.17a-5, 240.17a-8, and 240.17a-11 of this title (Commission Rules 17a-5, 17a-8 and 17a-11) constitutes compliance with this part.

(b) A government securities broker or dealer that is a financial institution and is subject to financial reporting rules of its appropriate regulatory agency is exempt from the provisions of §§ 405.2 and 405.3.

(c) This part shall be effective July 25, 1987, *Provided however*,

(1) That registered government securities brokers or dealers shall first be required to file the reports required by § 240.17a-5(a), by virtue of § 405.2, for the month and the quarter during which they were first required to comply with part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f); but that

(2) For any quarter ending prior to the quarter during which they were

first required to comply with part 402 of this chapter other than the interim liquid capital requirements of § 402.1(f), registered government securities brokers or dealers shall file with the designated examining authority for such registered broker or dealer, within 17 business days after the close of the quarter, an unaudited balance sheet (with appropriate notes) for such quarter, prepared in accordance with generally accepted accounting principles.

### **§ 405.2 Reports to be made by registered government securities brokers and dealers.**

(a) Every registered government securities broker or dealer, except a government securities interdealer broker subject to the financial responsibility requirements of § 402.1(e) of this chapter and a government securities broker or dealer that is also a futures commission merchant registered with the CFTC, shall comply with the requirements of § 240.17a-5 of this title (SEC Rule 17a-5), with the following modifications:

(1) References to “broker or dealer” include registered government securities brokers and dealers.

(2) References to “rules of the Commission” or words of similar import include, where appropriate, the regulations contained in this subchapter.

(3) References to Form X-17A-5 mean Form G-405 (§ 449.5 of this chapter).

(4) For the purposes of § 240.17a-5(a)(4) of this title, the Commission may, on the terms and conditions stated in that subparagraph, declare effective a plan with respect to Form G-405, in which case, that plan shall be treated the same as a plan approved with respect to Form X-17A-5.

(5) References to “net capital” mean “liquid capital” as defined in § 402.2(d) of this chapter.

(6) References to § 240.15c3-1, relating to net capital, mean § 402.2 of this chapter.

(7) Paragraph 240.17a-5(c)(2)(ii) is modified to read as follows:

“(ii) A footnote containing a statement of the registered government securities broker’s or dealer’s liquid capital, total haircuts, and ratio of liquid capital to total haircuts, determined in accordance with § 402.2 of this title.